

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

CASSANDRA RAINEY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:20-cv-00187-TWP-DML
)	
DOLLAR TREE STORES, INC.,)	
)	
Defendant.)	

Report and Recommendation to
Dismiss Complaint without Prejudice

This case arises from a slip and fall that occurred on May 28, 2020, at a Dollar Tree store. The plaintiff, Cassandra Rainey, died on August 5, 2020, the same date that the complaint was filed in Lawrence County Circuit Court. The case was subsequently removed to this court and the undersigned magistrate judge held an initial pretrial conference on December 10, 2020. At the initial pretrial conference, counsel for plaintiff stated his desire to withdraw from the case and that the plaintiff's family wanted to open an estate to continue litigating the case.

On December 31, 2020, the court granted plaintiff's counsel's motion to withdraw and gave plaintiff's successor or personal representative of her estate until March 1, 2021, to appear by counsel and file a motion for substitution of party (Dkt. 18). On March 2, 2021, plaintiff's daughter, Patricia Beaver, filed a motion for extension of time (Dkt. 19). The court granted that motion and gave

plaintiff's successor or personal representative of her estate until March 26, 2021, to appear by counsel and file a motion for substitution of party (Dkt. 21).

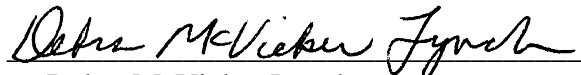
The court warned that if no successor or personal representative of plaintiff's estate appeared by counsel by March 26, "the magistrate judge will recommend that the District Judge dismiss this case without prejudice." To date, no successor or personal representative has appeared on the plaintiff's behalf or taken any other action in this matter.

Therefore, the magistrate judge recommends to the District Judge that the complaint be DISMISSED WITHOUT PREJUDICE.

Any objections to the Magistrate Judge's Report and Recommendation must be filed in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Failure to file objections within fourteen days after service will constitute a waiver of subsequent review absent a showing of good cause for such failure.

IT IS SO RECOMMENDED.

Date: 3/31/2021


Debra McVicker Lynch
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email generated by the court's ECF system

Patricia Beaver
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